Calendar No. 937

97TH CONGRESS, 2d Session | SENATE | REPORT No. 97-649

AUTHORIZING THE SERGEANT AT ARMS OF THE SENATE, WITH THE APPROVAL OF THE COMMITTEE ON RULES AND ADMINISTRATION, TO SETTLE CERTAIN CLAIMS INVOLVING MEMBERS, OFFICERS, AND EMPLOYEES OF THE UNITED STATES SENATE

OCTOBER 1 (legislative day, SEPTEMBER 8), 1982.—Ordered to be printed

Mr. MATHIAS, from the Committee on Rules and Administration, submitted the following

REPORT

[To accompany S. Res. 492]

The Committee on Rules and Administration, having considered an original resolution (S. Res. 492) authorizing the Sergeant at Arms of the Senate, with the approval of the Committee on Rules and Administration, to settle certain claims involving Members, officers, and employees of the United States Senate, reports favorably thereon and recommends that the resolution be agreed to.

The Federal Tort Claims Act (Act), chapter 171, title 28, United States Code, was enacted to waive the sovereign immunity of the United States from liability and to provide a remedy to persons who had been injured or suffered property loss or damages as a result of negligent acts or omissions by Federal officers and employees while acting within the scope of their employment.

It is the opinion of the Senate Legal Counsel, the Senate Legislative Counsel, the Department of Justice, and the General Accounting Office that the Federal Tort Claims Act does include the Legislative Branch. The Federal courts have determined that the Federal Tort Claims Act applies to the Legislative Branch.

The provisions of the Federal Tort Claims Act authorize the head of each Federal agency or his designee, in accordance with regulations prescribed by the Attorney General, to consider, ascertain, adjust, determine, compromise, and settle any claim for money damages against the United States for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the agency while acting within the scope of his office or employment, under circumstances where the United States, if

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a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

Under the Act, claims in the amount of $2,500 or less are payable out of funds available to the agency. Payments in excess of $2,500 are paid in a manner similar to judgments and compromises in like causes. Appropriations or funds for the payment of such judgments and compromises are made available for payment of awards, compromises, and settlements under the Act. Any award under the Act in excess of $25,000 cannot take effect except with the prior written approval of the Attorney General. Under regulations issued pursuant to the Act and set forth in Part 14 of title 28, Code of Federal Regulations, if the amount to be paid pursuant to a claim exceeds $5,000, the claim cannot be paid until after it has been reviewed by a legal officer of the agency, and some claims can be paid only after consultation with the Department of Justice. Payments of awards, compromises, or settlements in excess of $2,500 are obtained by the agency by referring the award, compromise, or settlement to the General Accounting Office for payment.

The situation at the present time is that the Senate has not designated an officer of the Senate to act as the "agency head" for the Senate in the settlement of such claims as provided for in the Act. Whether or not the Senate acts to establish the necessary procedures to enable it to receive and consider claims pursuant to the Federal Tort Claims Act, it is still subject to and under such Act. If a situation should arise requiring the disposition of a claim under the Act against an officer or employee of the Senate because of his or her negligence, it is likely to create much confusion in connection with the receiving and processing of that claim since the Senate has not adopted procedures necessary to enable it to meet its responsibilities under the Federal Tort Claims Act.

Senate Resolution 492, if approved, would provide the Senate with a mechanism for consideration, disposition, and settlement of all such claims in accordance with the Federal Tort Claims Act.

This resolution designates the Sergeant at Arms of the Senate as the "agency head" for purposes of processing those tort claims which arise under the Act involving Members, officers, or employees of the Senate. The Committee on Rules and Administration is required to approve settlement or other recommendations of the Sergeant at Arms. Where the claims process requires a review by a legal officer, the Senate Legal Counsel will perform the review.

If the Committee finds it necessary or desirable, it will promulgate special regulations to govern the application of the Tort Claims Act to the Senate.

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